

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

JEREMIAH BITZ,

Plaintiff,

Civil No. 11-3145-AA

v.

ORDER

MARK NOOTH,

Defendant.

AIKEN, District Judge.

Plaintiff filed a pleading captioned "Petition for Writ of Habeas Corpus" but did not pay a filing fee or file an application to proceed in forma pauperis.

Plaintiff's "petition" alleges that his confinement is unlawful because he is being denied proper medical care in violation of his constitutional rights.

By Order (#4) entered December 14, 2011, plaintiff was advised that a petition for habeas corpus relief under 28 U.S.C. § 2254 is the appropriate way to challenge the legality of a conviction or sentence

Plaintiff was further advised that the filing fee for

civil actions is \$350 and allowed 30 days to either pay the \$350 filing fee or to file an application to proceed in forma pauperis.


On January 17, 2012, plaintiff sent \$5.00 to the court. Plaintiff has not submitted an Application to proceed in forma pauperis as directed by the court.

For the reasons explained in the court's previous order plaintiff's "petition" is denied for failure to state a claim for habeas corpus relief. The dismissal is without prejudice to file a complaint under 42 U.S.C. § 1983 in a separate proceeding. If plaintiff's files a separate proceeding he is again advised that the filing fee for civil cases is \$350.00. He should either pay the filing fee or file a completed application to proceed in forma pauperis which authorizes the payment of the \$350 filing fee from his prison trust account.

This proceeding is dismissed.

IT IS SO ORDERED

DATED this 25 day of January, 2012.



Ann Aiken
United State District Judge